



Central file
RBB

Our

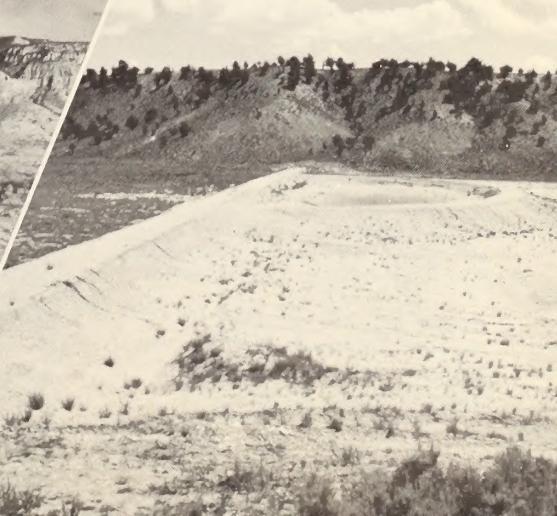
PUBLIC LANDS

BUREAU OF LAND MANAGEMENT

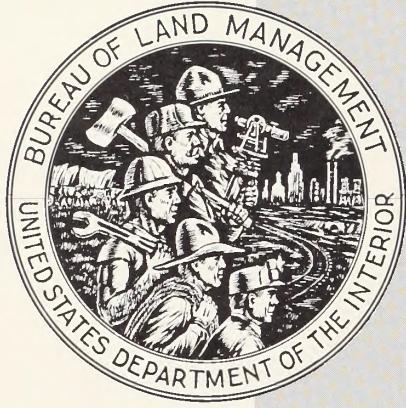
PROPERTY OF
Bureau of Land Management
DSC LIBRARY

OCTOBER 1959

Vol. 9 • No. 2



OUR PUBLIC LANDS . . .



Issued quarterly by

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
Washington 25, D. C.

The printing of this publication has been
approved by the Director of the Bureau
of the Budget, February 19, 1957

DEPARTMENT OF THE INTERIOR

Fred A. Seaton, Secretary

BUREAU OF LAND MANAGEMENT
Edward Wozzley, Director

BUREAU OF LAND MANAGEMENT ORGANIZATION

Director	Edward Wozzley
Associate Director	Earl J. Thomas
Assistant Director	Charles P. Mead
Assistant Director	James P. Beirne
Assistant to the Director	Charles R. Drexilius
Assistant to the Director	C. Edward Hoyt
Appeals Officer	Abe H. Furr
Cadastral Engineering Staff Officer	Earl G. Harrington
Forestry Staff Officer	Walter H. Horning
Lands Staff Officer	Harold Hochmuth
Minerals Staff Officer	Max Caplan
Range Management Staff Officer	Gerald M. Kerr
International Cooperation Officer	Byron C. Denby
Information Officer	Dwight F. Rettie

AREA ADMINISTRATORS

Area 1, James F. Doyle	Portland, Oregon
Area 2, Neal D. Nelson	Salt Lake City, Utah
Area 3, Westal B. Wallace	Denver, Colorado
Area 4, Jesse M. Honeywell	Juneau, Alaska

Materials in this publication are not
copyrighted and may be reprinted without
permission. Mention of the source will
be appreciated but is not required.

"Conservation is a state of harmony between men and land. By land is meant all of the things on, over, or in the earth. Harmony with land is like harmony with a friend; you cannot cherish his right hand and chop off his left. That is to say, you cannot love game and hate predators; you cannot conserve the waters and waste the range; you cannot build the forest and mine the farm. The land is one organism. Its parts, like our own parts, compete with each other and cooperate with each other. The competitions are as much a part of the inner workings as the cooperations. You can regulate them—cautiously—but not abolish them."

(From "Round River—From the Journals of Aldo Leopold," edited by Luna B. Leopold, Oxford University Press, 1953.)

CONTENTS

ARTICLES

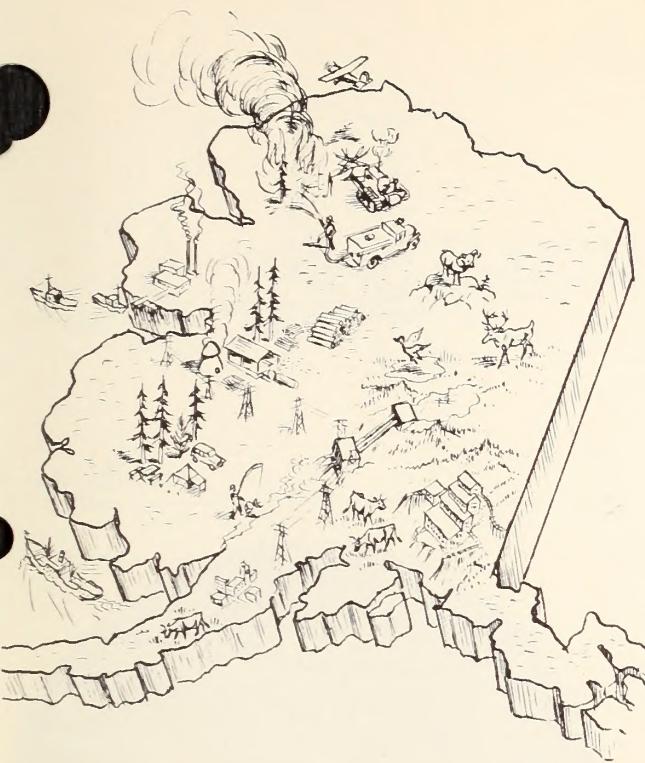
WHAT LIES AHEAD FOR ALASKA'S HOMESTEADERS?	3
by JAMES W. MATTHEWS, <i>District Extension Agent</i> , Fairbanks, Alaska	3
ON APPEAL TO THE DIRECTOR	4
DECISION	5
25 YEARS UNDER TGA	7
by NELDA TALBERT, <i>Range Staff</i> , BLM	7

FEATURES

ACTIVE ACRES	10
Population Center	
Geographic Center	
Litter Fighters	
Applications Rejected on Appeal	
OLDEST KNOWN LAND PATENT	16

COVER

On June 28, 1934, the President signed the Taylor Grazing Act into law. That law was an important milestone in the history of resource conservation in the United States. Twenty-five years have now passed since passage of the law. In those years a great number of strides forward have been made to rebuild, conserve, and protect all of the resources of the Federal range—its forage, soil, moisture, wildlife, minerals, and its beauty. With the help of improved grazing by livestock and wildlife and conservation practices such as those shown on the cover, more and more of Our Public Lands are being brought into fuller productivity. And the job ahead is still a big one. For more of this important story of conservation in action, see page 7.



WHAT LIES AHEAD FOR ALASKA'S HOMESTEADERS?

by James W. Matthews,
Fairbanks District Extension Agent, Alaska

(Reprinted from Extension Service Review, U.S. Department of Agriculture)

HOMESTEADING! The prospects of staking out a land claim in Alaska excites the imagination of a lot of people. They see this as an opportunity to get started in farming on "free" land.

But advising everyone interested in farming in Alaska to do so posthaste is somewhat like advising everyone interested in operating a drugstore, sawmill, or grocery store to come to the new State. Certain limitations apply to all of these operations—market limitations, training, physical and financial resources, capital requirements of establishing a new business in an area quite different climatically, sociologically and geographically than most States.

Many new and unusual problems face persons establishing a farm in Alaska. It is not possible to treat all of them in a single article. Discussion of some major problems, however, may help extension workers in advising persons interested in agricultural possibilities of Alaska.

Alaska is the only State which offers unlimited homesteading opportunities. Every male citizen of the United States over 21, or female over 21 who is head of a household, qualifies for homestead entry provisions on 160 acres. But this is not free land. A minimum of one-eighth of the acreage must be cleared and meet cultural requirements to be eligible for title.

Land clearing costs range from \$100 to \$125 an acre in the Fairbanks (Interior) area to as high as \$200 an acre in the Matanuska Valley and heavily timbered areas on the coast. Minimum cleared acreages to allow adequate rotation and good crop production range from 50 acres for vegetables to 100 acres for dairying and less intensive farm enterprises.

Dairying, potato, and small vegetables production have been the most successful and stable farm enterprises.

A 1957-58 survey of 18 dairies in the Matanuska Valley indicated an average capital investment of \$57,479 in land, buildings, machinery, livestock, crops, feed, seed, and fertilizer. Milk production per cow averaged 10,000 pounds. Cost of production per 100 lbs. of milk amounted to \$9.72 and sales price per 100 lbs. ranged from \$9 to \$11.50.

Dairying, which accounts for more than 50 percent of the annual farm income, has seasonal surpluses, even in its developmental period. Surplus milk is sometimes sold below production costs in the Matanuska Valley, the largest production area.

Using the national average consumption rate of 107 lbs. of potatoes per person, 1,680 acres would be needed to satisfy requirements for Alaska's 220,000 people. The 1957 potato acreage for

(Continued on page 11)

ON APPEAL TO THE DIRECTOR

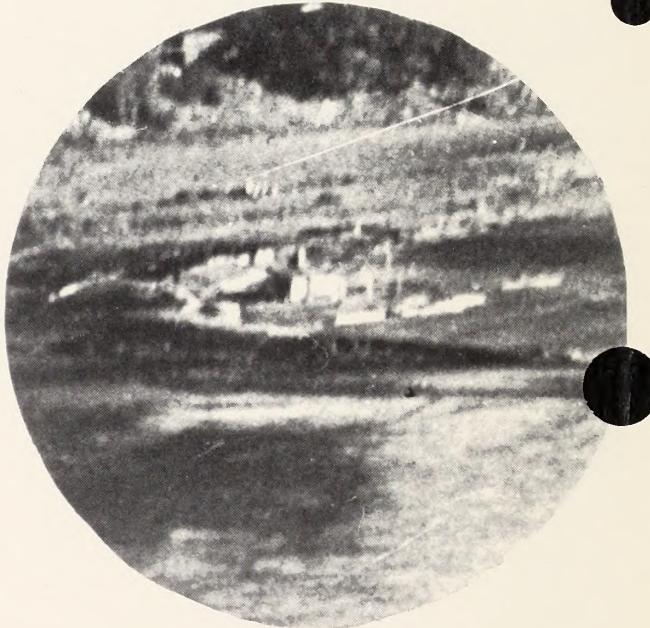


EVERY YEAR, many applications for public lands and resources are rejected by BLM field offices. Disappointed applicants who wish to do so may appeal to the Director of the Bureau of Land Management to have their cases reconsidered.

The issues involved in cases on appeal are often complex. There may be questions of fact and of law or of interpretation of administrative regulations and of individual judgment. The Appeals Office, a special part of the Office of the Director, devotes its full time to giving complete and careful consideration to all of the issues raised by appellants.

The condensed decision which follows illustrates the background research and critical analysis of evidence sometimes required in a case on appeal. Of course, not all appeals require as much historical research and analysis. But the same elements of justice and fair dealing that are apparent in this decision may also be found in the thousands of others which the Appeals Office handles each year.

End



WAS THERE AN ISLAND? Taken in 1905, this panorama of Lewiston, Idaho, shows what appears to be an island on which a cabin stands. The photograph is in the collection of the National Archives. The circle above is an enlargement of the cabin.



DECISION

A. D. Murray

Application for
Survey of an Island

Decision of the Area Administrator Reversed

MR. A. D. MURRAY has appealed to the Director of the Bureau of Land Management from a decision of the Administrator, Area 2, Salt Lake City, Utah, dated November 30, 1956, which rejected his application for the survey of an island in the Snake River on the ground that an investigation made by a cadastral engineer resulted in a determination that the area in question was below the river's ordinary high water mark in 1890, when Idaho was admitted to the Union, and is not, therefore, public land of the United States.

The only issue involved is whether or not the island was in existence on July 3, 1890, when the State of Idaho was admitted into the Union. . . . The township in which the island is located was surveyed in 1873, but the existence of the island is not indicated either by the field notes or the plat of survey. However, the inference naturally arising from the silence of the field notes and plat that there was no island at the time of survey is refutable. . . .

In this case the appellant need only show that the island was in existence, and has continued to exist, not from the date of the survey, but from the date of the admission of the State of Idaho into the Union, 17 years after the survey. If the island was not then in existence, it now belongs to the State of Idaho, because the State upon its admission to the Union acquired title to lands in the beds of navigable rivers in the State, of which the Snake River is one. . . .

If the island was in existence on July 3, 1890, it remained public land of the United States until disposed of by the Federal Government. . . . In determining whether the island was in existence on July 3, 1890, the question is whether it was then above the ordinary high water mark of the Snake River. . . .

The island is in the Snake River, at the point where the Snake and Clearwater Rivers meet. The city of Lewiston, Idaho, is immediately east of the island; the city of Clarkston, Washington, is to its west. It is the only island in the vicinity of the confluence of the Snake and Clearwater Rivers. A bridge linking the cities of Lewiston and Clarkston passes to the south of the island.

[A cadastral engineer investigated the area and submitted a written report of his findings and conclusions.] . . . He found the mean high water mark of the Snake River at this point to be 725 feet above sea level in 1956, and probably higher before 1910. The highest point on the island was 729 feet above sea level; the area above mean high water comprehended 1.5 acres, consisting of river bed material. . . .

The mainland, on the other hand, is composed of a rich sandy loam underlaid with gravel at various depths. A core taken by increment borer from the largest tree on the island showed it to be 38 years old. An old cabin on the island was estimated to have been built 10 to 15 years ago. . . . It was also found that at the point of union of the Snake and Clearwater Rivers there is a definite backwash up the east side of the channel of the Snake River. The island lies directly beneath this backwash during periods of high water. . . .

The cadastral engineer concluded that the island is composed of washed boulders, gravel, sand and other river flotsam deposited over a fairly recent geological period; that the three foot depth of accreted material around the oldest trees indicates that the island has been built up at the rate of about one inch a year, and that, in 1890, 66 years prior to the date of the investigation, the island had been 66 inches lower in the water, and therefore below the ordinary high water mark of the Snake River.

However, for a more complete picture of the status of the island in 1890, some investigation into its history should have been made. . . .

Undoubtedly, it was difficult to obtain in Lewiston affidavits and documents which might reveal the condition of the island 66 years prior to the time of the investigation. Therefore, the official files of the Bureau of Land Management, and materials contained in the National Archives, the Library of Congress, and published records and journals have been consulted to supplement and complete the cadastral engineer's report.

On the morning of October 10, 1805 . . . the exploration party of Lewis and Clark, after having camped for the night along the banks of the Kooskooskee River (as the Nez Perce Indians called the Clearwater) loaded their canoes and proceeded over perilous rapids for 20 miles until they reached a "large fork of the river from the south," where they halted to camp for the night. The "large fork" was the Snake River, or Lewis' River, as Clark had named it in honor of his partner; the place where they camped, on the right bank of the river, was opposite the city of Clarkston and diagonally across from Lewiston.

The area is described with characteristic completeness in the journals of Lewis and Clark:

" . . . The Kooskooskee, whose waters are as clear as crystal, is 150 yards in width; after the union the river enlarges to the space of 300 yards. At the point of union is an Indian cabin, *and in Lewis' River a small island.*" [Emphasis added.]

The level of the water of the Snake River is at its lowest in September and October. In May 1806, Lewis and Clark again passed by the juncture of the Snake and Clearwater Rivers, but no description of the place is given this second time, nor is there any mention of an island. However, the island is depicted on a map made during the exploration, and it appears to occupy the same

position, and be of the same general size and shape, as the island involved in the present application.

During the years that followed, this region was visited chiefly by trappers and missionaries. Then the discovery of gold along the Clearwater River increased the influx of people. In 1861 the city of Lewiston was founded. . . .

In August 1874, E. B. True, M.A., made a survey and two plats of the city of Lewiston and on April 10, 1875, patent for the Lewiston townsite was issued by the Government to the mayor-trustee of the town. One of the maps prepared by E. B. True shows the western boundary of Lewiston to be, not the Snake River, but a narrow channel of water clearly labeled as a slough, beyond which there is more land—presumably the island. The other map shows the northwest tip of the city of Lewiston to be connected by a peninsula with a body of land in the Snake River occupying the same position as the island here involved. This peninsula still is in evidence during periods of low water, and seems to have changed little since 1874.

In a map prepared by the Army Engineer Corps in 1881, this same body of land is depicted, not as an island, but as a sandbar, having, nevertheless, substantially its present shape and size.

After this, there are no further references to an island for thirty years. Then, on June 21, 1911, one David C. Hirzel applied for the survey of an island in the Snake River, adjoining Lewiston, on which he claimed to have been living since August 27, 1904. An agent of the General Land Office was sent to inspect the island, and on November 25, 1911, he reported on what he described as a "peculiar situation":

The island is occupied by said Hirzel, who in his application claims that he desires to enter the land under the homestead law. On the island I found a house, a barn, small chicken house and a very small tract fenced. The island as a whole is simply a sandbar thrown up by the action of the waters, and should not in my opinion be classed as agricultural land. The house is built on high posts in such a manner as to assure against high water. * * * Knowing the Snake River as I do, I have grave doubts about this island being above the extreme high water mark.

The application for survey was accordingly rejected on March 12, 1912. Mr. Hirzel appealed from the rejection, and submitted, in support of his appeal, affidavits of four long-time residents of the area. . . .

Edson D. Briggs stated that he had lived in and near Lewiston since May 1873, that he had been surveying in the area for almost 40 years, and was at the time of his affidavit County Surveyor of Nez Perce County; that ever since he came to Lewiston he had been well acquainted with the island which is situated just west of the city of Lewiston, Idaho, and at the junction of the Snake and Clearwater Rivers, and that "the island has existed until the memory of man runneth not to the contrary."

(Continued on page



THEN



NOW

The view of a winter range in Colorado is dramatic proof of the results of good range management. Revegetation on this area was done naturally—better grazing practices alone have brought back this range area to fuller productivity.

25 YEARS UNDER TGA

by Nelda Talbert, Range Staff, BLM

THE STORY of the settlement of the West is one of struggle and hardship. The competition for the forage resources of the vast areas of the new land as the pioneers continued westward is a leading chapter in that story.

As increasing numbers of cattle and sheep moved into the little known territory, uncontrolled and excessive grazing began to exhaust the grazing capacity of the ranges. Aggravated by drought, the situation soon led to strife and competition among livestock interests for control of the range lands.

In the absence of Federal legislation, some of the States assumed jurisdiction over these lands in order to obtain some measure of lawful range use. Efforts toward management, control, and preservation of the western range met with firm opposition as the problem became more apparent. As a whole, the West was opposed to any form of federal stewardship within the States.

Until 1879, the Nation was unaware of the gravity of the situation. In that year Congress authorized a commission to study the public land problem. However, no attention was paid to the findings of the commission. It was not until the early 1930's when the Colton bill was introduced, that any remedial action toward controlled grazing met with favorable consideration. Representative Edward T. Taylor of Colorado reintroduced a similar bill in the first session of the 73d Congress. It was enacted into law on June 28, 1934—the first conservation measure of its kind. This was the Taylor Grazing Act.

A decision of the United States Supreme Court states: "When the task that is set before one is that of cleaning house, it is prudent as well as usual to take counsel of the dwellers." Before exercising the authority Congress delegated to it by the Taylor Grazing Act, the Department of the Interior held preliminary public meetings in



SEEDING BY HAND in the early days of rebuilding the Federal range.



MODERN HEAVY EQUIPMENT is speeding the job of building the productivity of the range.



SEEDING PROJECT shows the results of rangeland conservation. Thousands of acres are now seeded each year.



STOCK WATER facilities help spread range use by reducing the areas

the western States to discuss and explain the new law. These meetings led to the development of a plan for cooperation between the stockmen and the Federal Government which has since characterized the pattern of range conservation programs throughout grazing district administration.

A Division of Grazing Control was created in the Department of the Interior in January 1935, and a Colorado stockman, Farrington R. Carpenter, became the first Director of Grazing.

The first big job was the organization of the vast areas of western public lands into manageable administrative units. State committees of stockmen assisted the Department in determining the boundaries of grazing districts. Within the first year of administration it was evident that the 80 million-acre limitation provided for in the act would not take care of the demand for grazing licenses. In 1936, the act was amended to provide a new maximum of 142 million acres. The acreage limitation was eliminated entirely in 1954.

On March 23, 1935, Wyoming Grazing District No. 1 became the first district to be established under the act. The following September the first annual licenses to graze livestock within grazing districts were issued. A total of 15,000 licensees

DISTRICT OFFICE serves as headquarters for staffs in each grazing district.





Heavy grazing and opening other areas to light, well-distributed use.

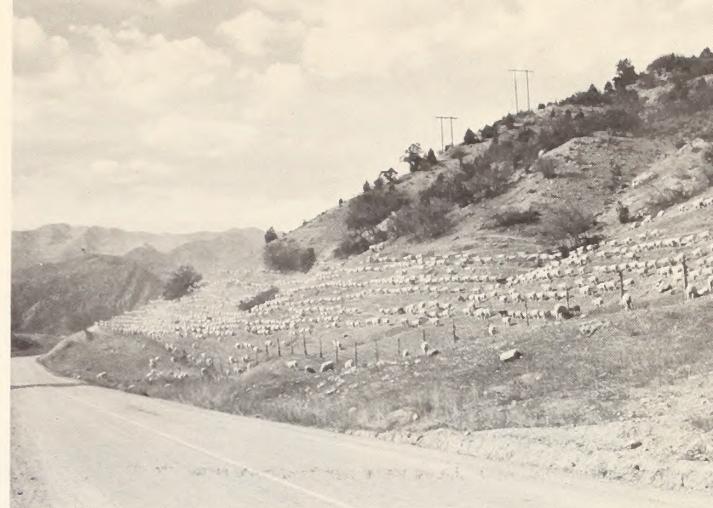
were authorized to graze a total of 8,396,232 livestock on Federal range lands before the end of the year.

The task confronting the Division of Grazing was impressive. The data were not yet available from range surveys to determine the proper grazing capacity of the public ranges or forage production and facilities on private properties used in connection with the public ranges. There was little information on record concerning the extent, character, location, or usefulness of the public lands. But as this information was gathered, the pattern of public ranges and private lands began to appear. Local adjustments could then be made, range areas assigned, and controversies settled.

The Secretary of the Interior approved the first rules for the administration of grazing districts under the act in 1936. These regulations, the forerunner of the first Federal Range Code, were developed with the advice of range users' representatives. This pattern of advice has been continued in revised codes since 1936. Revisions were made in 1938 and 1942 before the Federal Range Code for Grazing Districts received its official title in 1946.

(Continued on page 14)

From this office the field work of the district is planned and directed.



MANAGING THE RANGE to insure adequate good forage for livestock and wildlife, BLM provides stock driveways, trails, and fenced corridors over which livestock are moved to and from the range.



FIRE CONTROL on the range is a big job for BLM. Using the most modern fire fighting weapons—airplanes, chemical “bombing,” airlifts by helicopters, mobile tankers, VHF radio communications—BLM is putting the squeeze on this ancient enemy.

WILDLIFE CONSERVATION is an important part of the range management program. Good range and adequate forage assures plenty of food and cover for wildlife and livestock.





POPULATION CENTER

The center of population of the United States as computed after the 1950 Census of Population for the then 48 continental States was located 8 miles north-northwest of Olney, Richland County, Ill., latitude $38^{\circ}50'21''$ N. and longitude $88^{\circ}9'33''$ W.

The Census Bureau has estimated that the 1950 center of population of the 50 United States including Alaska and Hawaii was located at latitude $38^{\circ}48'15''$ N. and longitude $88^{\circ}22'8''$ W.

This point is about 3 miles northeast of Louisville, Ill., in Clay County and is approximately $16\frac{3}{4}$ miles west and $2\frac{1}{2}$ miles south of the 1950 center for the 48 States.

GEOGRAPHIC CENTER

The addition of the new State of Hawaii to the Union will move the geographic center of the United States to a new position approximately six miles from its present location in Butte County, S. Dak., according to the Coast and Geodetic Survey, U.S. Department of Commerce. Alaskan statehood last January had moved it 439 miles northwest from its traditional site near Lebanon, Kans.

The new center will be located approximately at latitude $44^{\circ}58'$ N. and longitude $103^{\circ}46'$ W. Although still in Butte County, South Dakota, the center will move about 6 miles west-southwest from the position which represents the center of the United States, including the 49th State. The

new position is approximately 17 miles west of Castle Rock, S. Dak.

Due to the difficulty of determining the exact geographic center of several large, irregular, and separated areas on a spheroid, the new location would fall anywhere within 10 miles of the newly computed point. Several methods of approaching the solution are available, but none is of any scientific significance.

In computing the new position the mathematicians started with the geographic center of the 49 States, computed in July 1958 to be approximately at latitude $44^{\circ}59'$ N. and longitude $103^{\circ}38'$ W. In the next step the geographic center of Hawaii was determined, using the so-called "center-of-gravity" method. In final determination of the geographic center, the area and location of the 49 States were weighed against the area and location of Hawaii.

LITTER FIGHTERS

Keep America Beautiful, Inc., has put out three revised Project Guides for Leaders to support its drive to improve America's litter habits.

Automobile Litter Containers includes suggestions for conducting a "litterbag" campaign and illustrated description of 48 commercial products.

Litter Receptacles suggests ways to determine effectiveness of existing sidewalk trash receptacles, shows various types now in use, and lists sources of commercial products.

Litter Laws includes information on community, State and Federal litter laws and ordinances; model laws, and enforcement procedures.

All activities suggested in these guides have been tested and proved successful in many areas, and can be adapted for almost any community.

Write Keep America Beautiful, Inc., 99 Park Avenue, New York 16, N.Y.

APPLICATIONS REJECTED ON APPEAL

Applications covering more than a quarter-million acres in seven southern California valleys have been simultaneously rejected on appeal. The rejections by the Director of BLM were concurred in by the Secretary of the Interior.

The decision applies to 740 separate applications for desert land entries which originally were rejected by the Los Angeles office of the Bureau.

The rejection followed a detailed survey of the underground water supply and annual replenishment rate of each of the seven arid valley areas. In each area, evidence showed that water supplies were insufficient to permit applicants to irrigate to the extent necessary to perfect desert land entries. Areas involved were the Mojave River Drainage, Fremont, Indian Wells, Ward, Rice, Chuckawalla and Upper Kingston Valleys.

The history of desert land entries in southern California has been marked by many failures due to lack of water. In 1923, there were 536 outstanding desert land entries in Chuckawalla Valley. All failed. Since 1950, 99 additional desert land entries have been allowed in the valley, only three of which have undergone development and none of which has yet qualified for patenting.

In Ward Valley, applications were based on the records of a well said to produce from 75 to 120 gallons of water per minute. This is sufficient to irrigate only 10 to 15 acres of land—not enough to permit the required commercial crop production.

Similar situations existed in the other areas. All available water is already being used or there is no evidence that any water can be obtained at an underground level high enough to permit economically feasible pumping operations for agricultural production.

Allowances of desert land entries in areas where there is insufficient water is against sound conservation practices. Leveling and destroying the natural cover of the lands, where there is no possibility of irrigation, results in excessive erosion and promotes dustbowl conditions.

End

ALASKA'S HOMESTEADERS

(Continued from page 3)

Alaska was 1,090 acres, 1958—1,008 acres. Planting indications this year are 730 acres—a steady

downward trend reflecting high production costs, market price fluctuations, reduced demand by military forces, and competition from lower production cost areas in other States.

More adequate marketing facilities are a prime need to assist agricultural production in Alaska.

Agricultural financing is a problem in developing the State. A revolving loan fund initiated by the State legislature has been the backbone for financing available to farmers. To date, \$400,000 has been appropriated for this fund, which is administered by the State Department of Agriculture.

Farmers Home Administration loan facilities are available but limited by the majority of new settlers' inability to meet minimum security requirements.

Climatic features differ in Alaska's major agricultural areas, producing unusual problems. Low soil temperatures in the Tanana Valley (Fairbanks), Matanuska Valley, and Kenai Peninsula slow up decomposition of organic materials.

Interior Alaska, with winter temperature often dropping below -50° F., has severe permafrost conditions in many areas. These conditions hamper surface and subsurface drainage and result in a lag of 2 to 3 years from clearing action to time the land may be worked.

Growing seasons are short and feature frost hazards—both items of importance.

The majority of Alaska homesteaders depend on off-farm employment to provide a living and farm development funds. Average development periods from initial entry to the beginning of commercial production range from 5 to 8 years.

Military construction, base maintenance, supplies, and payrolls have accounted for more than half of the total income to Alaska since World War II. The demand for persons with building trade skill, administrative experience, and maintenance work is strong. This work, especially the construction phases, is highly seasonal. Mining is a minor resource at present.

Living costs are high in Alaska. A December 1958 food price survey indicated higher prices in 40 major retail food items. Palmer and Anchorage averaged 135 and 136 percent over Seattle, Wash., prices. Fairbanks, the highest cost of living area of agricultural importance, averaged 152 percent over Seattle prices.

What justifies continued emphasis in developing Alaska's agriculture? There are several large areas of fairly good soils where climates favor cool-season crops and forage.

Cereals will mature and even tomatoes will ripen in the short summers in the Yukon Valley. Farther south, near Fairbanks, the frost-free period is sufficient for cereals and forage, although summer temperatures are generally too low for warm-season vegetables such as beans and tomatoes.

The coastal climate of the Kenai Peninsula is marked by longer frost-free seasons but also by lower summer temperatures which prevent cereals from ripening except in favorable years. Forage thrives in this environment, which is well adapted to dairying based on high protein silage feeds. Cool-season vegetables and potatoes grow well.

Agriculture in Alaska, a bulletin for prospective settlers, contains information on prospects and problems of specific agricultural areas in Alaska. It may be obtained from the Director of Agriculture Experiment Stations and Extension, Box E, Palmer, Alaska or University of Alaska Extension Service, Box B, College, Alaska.

End

DECISION

(Continued from page 6)

[Other long-time residents also said that the island was in existence before Idaho was admitted as a State.]

On December 12, 1912, the rejection of Mr. Hirzel's application was affirmed, primarily on the ground that the applicant had not served notice on the adjacent landowners, nor upon the State officials. . . .

Nevertheless, his contention that he had lived on the island since 1904 seems borne out by a photograph made in 1905 by Henry Fair. This photograph is a panoramic view of the cities of Lewiston, Idaho, and Clarkston, Wash., taken from the north bank of the Snake River, opposite the city of Clarkston, and looking down the river toward the steel bridge between the two cities. The island is readily identifiable; clearly visible through its sparse covering of trees and shrubs is a cabin, or shack, which undoubtedly is the one built by Mr. Hirzel, and which may be the same cabin now existing on the island. (It is interesting to note that a map of the city of Lewiston, compiled and drawn in 1905 by Fred Glenn, does not reveal the island.)

Later, and because of Mr. Hirzel's application, the Northern Pacific Railway Company brought an action to quiet title to the island in the District Court, Second Judicial District, State of Idaho, in and for the County of Nez Perce. The District Court found that . . . "said sandbar is not of the class of land of which the United States takes recognition as agricultural land or an island within the river, for the purpose of having a survey made thereof. . . ."

This finding was accepted by the Idaho State Court. . . .

. . . the legal effects of the court action were discussed at length in the Director's decision of May 13, 1956, which held that the decision of the Idaho Supreme Court did not decide the Federal issue involved in this appeal. [Since 1916, the island has been shown on official maps.]

It thus appears that an island in the Snake River, in the position, and of the shape and size the island involved in this appeal, was mentioned and mapped in 1805, 1874, and 1881; that fairly complete records attest to its continuous existence from 1905 to the present time, and that affidavits of longtime residents of the area indicate that the island was in existence on July 3, 1890. It is therefore concluded that the island was in existence in 1890, and is public domain, subject to survey.

Such a conclusion is not as inconsistent with the findings of the cadastral engineer as it may at first appear to be. There can be no doubt that the island is composed of material deposited by the Snake River, and that it has been formed, as the cadastral engineer stated, by the "backwash" resulting from the collision of the rapidly flowing waters of the Snake River with the languid waters of the Clearwater River. The more quickly river water flows, the more sediment it is capable of carrying. When the speed of the water is checked, its transporting power is diminished, and the stream is forced to deposit part or all of its load. River bars are thus formed, and over a period of time, a bar can evolve into an island.

Whether or not the island should be surveyed depends not upon its composition, but on its existence above the ordinary high-water level of the Snake River on July 3, 1890, and its continued existence since that date. The cadastral engineer's statement that the island has been built up at a geologically rapid rate is consonant with a finding

APPELLANT'S EVIDENCE. This picture was submitted with the appeal to help prove that the island had existed for many years. According to the decision ". . . the area above mean high water comprehended 1.5 acres, consisting of river bed material . . ."



that the island has developed at what is, historically, a slow rate. Therefore, the conclusions as to the age of the island, rather than its composition, must be studied.

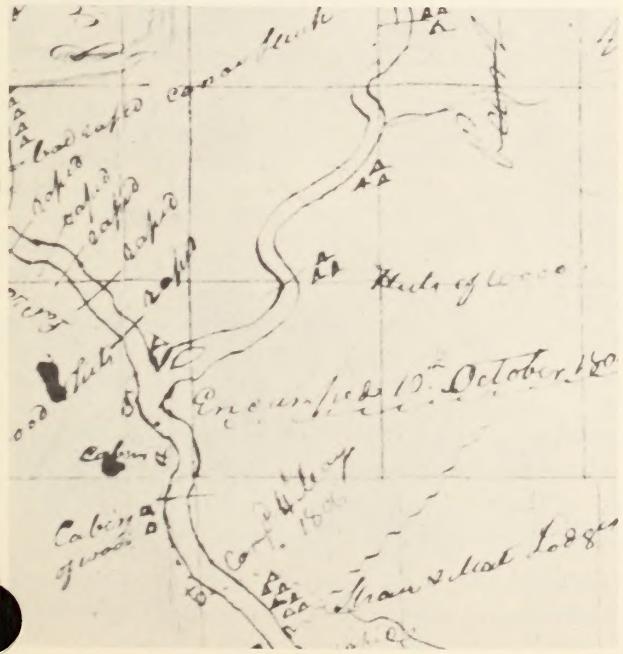
It will be remembered that upon finding about 3 feet of accreted material surrounding the lower portions of the trunks of trees which were from 33 to 38 years old, the cadastral engineer concluded that the island had been built up at the rate of 1 inch a year.

Theoretically, therefore, in 1905, 51 years prior to the investigation, the level of the island should have been 51 inches below its 1956 elevation of 729 feet. That is, the height of the island in 1905 should have been 724 feet, 8 inches: 4 inches below the present mean high water elevation of 725 feet, and several inches more below the mean high water elevation in 1905, if we assume, as the cadastral engineer did, that the mean high water mark before 1910 was higher than it is now.

But the picture of the island taken in 1905 shows it protruding several feet above the level of the river, apparently above water long enough each year to permit grass and shrubbery to grow, and substantial enough to support a cabin. That the island was so developed in 1905 seems to refute the reasoning that it has accreted steadily at the rate of 1 inch a year, and lends force to the conclusion that it was in existence, and subject to survey, prior to July 3, 1890.

The cabin now on the island was estimated to be from 10 to 15 years of age—although it was described as being "old." This age was appar-

LEWIS AND CLARK'S MAP on which they recorded an island in 1805 near the site on which they camped October 10th. Also noted on the map were rapids, two cabins, and a wood hut. Kooskooskee was the old name for the Clearwater River.



ently deduced from the 1 foot of sand and river flotsam covering the floor of the cabin. If this cabin is one of the structures originally built by Hirzel—and this seems likely—the inferences as to the age of the island made from the buildup of sand around objects of known age are seriously undermined, for there is a patent inconsistency between the existence of 3 feet of river flotsam around the base of the 38-year-old tree, and only 1 foot of river flotsam covering the floor of the (perhaps) 50-year-old structure.

The different positions of these objects on the island may account for the varying heights of the buildup of river material—but if this is so, it can justly be concluded that the part of the island where the cabin is has been thus raised only 1 foot over the last 50 years. It would seem that the island has grown at a slower rate than has been supposed, and that, consequently, its present condition is the result of a longer period of growth—a period of growth which began substantially before 1890.

Furthermore, the continued existence of the cabin over so long a period of time indicates that the part of the island on which the cabin rests is, during most of the year, and has been since 1905, above the ordinary high water level of the river, and that the island has proven to be of sufficient durability to withstand the ravages of the Snake River floods for 51 years.

Although much of the foregoing is predicated upon the assumption that the structure now on the island is the same edifice which was there in 1905, it is realized that such an assumption may be contrary to fact. But, unless and until the cabin now on the island is revealed to be of later origin, the possibility that it has been there since 1905 must be a factor in considering the history of the island. That there was a cabin on the island in 1905, this in itself an important fact, is indisputable.

The lack of trees more than 38 years old is not persuasive as to the recent development of the island; Lewis and Clark, who first described the area (and, perhaps, this very island) commented on the lack of trees. . . . It must be assumed that, for reasons natural or artificial, the presence of trees in the area is a recent phenomenon.

When Mr. Murray applied for the survey of the island, he submitted affidavits which further attest to its great age. . . . If the older age for the cabin which these affidavits establish is accepted, and if the cabin now on the island is the cabin referred to as having been there in the 1890's, the permanency of the island is all the more clearly revealed. In any event, the statements in the affidavits supplied by Mr. Murray are entitled to careful consideration insofar as they relate to the existence of the island at an early date, without regard either to the question of the presence of a cabin on the island then, or the origin of the cabin now on the island.

There can be no doubt that the conclusions of the cadastral engineer were sound, and logically followed from the information he had before him. Nevertheless, it is proper, in determining the existence of an island at any specific time, to consult all sources of information—historical documents and affidavits among others—as well as to consider the existing physical evidence. The physical evidence, unless conclusive, shall not subordinate other sources of pertinent evidence, which, cumulatively, may alter or refute the findings based upon the physical examination.

The island is therefore found to be public land, subject to survey and disposal by the United States. The decision of the Area Administrator is reversed, and a survey of the island is hereby ordered.

End

25 YEARS UNDER TGA

(Continued from page 9)

The Taylor Grazing Act did not provide officially for district advisers until July 1939 when Section 18 was added to the act. Section 18 requires that advisory boards of from 5 to 12 stockmen be elected in each grazing district. New advisory board elections resulted in the reelection of approximately 80 percent of the board membership, many of whom are still serving on their boards today.

A year later a National Advisory Board Council was organized. In 1949 the present advisory board system was given official status and completed by the formation of State Boards.

The Taylor Grazing Act continued recognition of the claims of the sportsmen and nature lovers by stipulating that withdrawals from grazing districts would in no way interfere with hunting and fishing rights within withdrawn areas. Wildlife organizations were among the groups with whom the act directed the Secretary of the Interior to cooperate in connection with the administration of grazing districts.

Under a plan adopted in New Mexico in 1935-36 there was one wildlife representative on district boards, a plan which was extended to all grazing districts by the 1939 amendment to the Taylor Grazing Act.

Grazing fees authorized under the Taylor Grazing Act were challenged during the first years of administration by a group of Nevada stockmen. The Nevada courts supported them by declaring illegal the temporary licensing system which had been adopted. After 5 years of litigation, on May 26, 1941, the U.S. Supreme Court reversed the decision of the Nevada Supreme Court and "upheld the Secretary of the Interior in his plan to collect grazing fees under temporary grazing licenses pending the accumulation of necessary information to warrant the conversion of these licenses into 10-year grazing permits."

The philosophy of a grazing fee related to the cost of administration had been generally accepted by the stockmen-users of the public ranges. The initial fee established at 5 cents per animal unit month soon proved not to be enough to cover administrative costs. Rex L. Nicholson had been appointed by Secretary J. A. Krug in 1946 to make a study of public land administration and grazing fees. Not until 1947, however, after filing of the so-called Nicholson report, were the fees raised to 6 cents, with an additional 2-cent fee for range improvements.

Governmental concern over the adequacy of economic return from the Nation's resources has since led to further increases. A new formula was adopted in 1958 which varies the fees each year according to fluctuations in the average prices of beef and lamb. The current fee is 22 cents an animal unit month.

The years from 1938 to 1942 were a period of reconsideration and adjustment. Principles and procedures set forth in the 1938 range code combined with more exact information that had been gathered led to a comprehensive review of previous administrative actions.

During the war years, the Division of Grazing (renamed the Grazing Service in 1939) moved its headquarters to Salt Lake City, Utah.

The war quickly changed the programs for conservation of western rangelands, such as the planned reductions in use of the range, to a program of production. Methods were sought to increase production of meat, wool, and hides. More than 1,600 war emergency licenses were issued. Adjustments in the use of the range necessarily became a secondary goal, although a still important one.

Along with increased production of livestock, close scrutiny was made of all other uses of range forage which might possibly reduce the amount available for livestock. Wildlife and big game animals were rated of less importance, and control measures were enforced.

Under another phase of the war effort, the Grazing Service began an access road program to facilitate war production of strategic materials. Nearly 2,000 miles of range and forest access roads were constructed. Some were eventually abandoned but most are being used today. They have greatly aided the administration of remote range areas.

The range lands themselves also contributed to the national defense. A total of 14,500,000 acres were withdrawn to provide training bases and testing grounds for the Army and the Navy.

During World War II, the Grazing Service, like the other conservation agencies, was handicapped by a sharp reduction in staff, despite its additional responsibilities.

On July 16, 1946, the President's Reorganization Plan No. 3 combined the Grazing Service and the General Land Office into a newly established

Bureau of Land Management. The central offices of the former Grazing Service were brought back to Washington.

Manpower shortages originally caused by World War II were further aggravated afterward. Grazing administration, now under the Bureau of Land Management, was affected by a difference in philosophy between the two Houses of Congress as to the level of grazing fees. As a result of this difference, appropriations for range administration were cut by about one-half.

Not until 1951 were appropriations raised to the level which would provide the minimum manpower recommended in the 1946 Nicholson report. In the meantime administration of the Federal range was severely hampered. Solutions to old problems of overobligation of the range and uncontrolled trespass, postponed during the war, were delayed even longer.

Since 1951, however, the range program has improved materially. The cumulative advantages of the range management and soil and moisture conservation programs had become apparent. As water developments, range seeding, protective fencing, erosion control, and similar projects became operative, their beneficial effects to the range and dependent industries were evident.

Because of the many diverse interests in grazing lands represented in the complex land ownership pattern in public land States, cooperation in grazing control has assumed an important role among State, county, private, and Federal agencies. Every effort has been made to work out livestock numbers, seasonal adjustments, methods of management, and development of improvements which will benefit all concerned.

Along with grazing by domestic livestock, the public grazing lands also support large numbers of wildlife and provide hunting and fishing for thousands of recreation-hungry Americans. Needs for recreation and wildlife protection have increased rapidly since World War II. Each year sees additional truck trails constructed—making the range country more accessible for

recreation as well as for more intensive administration of the Federal range.

During the same period, thousands of people have expressed their desire for land ownership by making applications under the land laws for areas of lands now used for grazing. Particularly heavy in the Southwest, these applications sometimes require adjustments and changes in management of the range for grazing.

In some areas in recent years, the range has suffered under serious drought. A tour by the President and the Secretaries of Agriculture and the Interior of drought areas in the Southwest attracted national attention to the problem in 1957.

The Bureau of Land Management can point with pride to an overall improvement in the condition of the range lands, vegetation, and soil after 25 years under the Taylor Grazing Act.

The downward trend in range condition has been stopped on more than four-fifths of the lands that were deteriorating at the time the Taylor Grazing Act was passed in 1934. Some 20 percent of the useable nonwaste public range is still going downhill. That decline must, and will, be stopped. The road back up to full productivity, however, will be a long, hard climb—some badly eroded lands may never fully recover.

The Bureau administers approximately 160 million acres of Federal land in 59 grazing districts. In fiscal year 1958, over 18,000 operators grazed 8,115,112 head of livestock on these lands. In addition, an estimated 1,170,693 head of big game depended upon forage resources on the public domain. Over 16 million acres of Federally owned range lands outside grazing districts are used by an additional 2½ million domestic livestock.

Since passage of the Taylor Grazing Act 25 years ago, significant strides have been made in rehabilitating, preserving, and protecting public range lands. With increasing demands for livestock production and use of the range, it is even more important that this progress be maintained.

End



U.S. GOVERNMENT PRINTING OFFICE: 1959 O-518060

For sale by the Superintendent of Documents, U.S. Government Printing Office, Washington 25, D.C. - Price 15 cents (single copy).
Subscription price 60 cents a year, 25 cents additional for foreign mailing.

SUPERINTENDENT OF DOCUMENTS
GOVERNMENT PRINTING OFFICE
WASHINGTON 25, D.C.

PENALTY FOR PRIVATE USE TO AVOID
PAYMENT OF POSTAGE, \$300
(GPO)

OFFICIAL BUSINESS

The United States of America,

To all to whom these presents shall come Greeting:

K NOW YE, That for the consideration of Six hundred
and forty Dollars, we have granted, and hereby do
Grant and confirm unto John Martin,
the Lot numbered Twenty,
in the Township,
numbered Seven, in the Range Fourteh, excepting
and reserving one third Part of all Gold, Silver, Lead and Copper Mines within the
same, for future Sale or Disposition: To have to the said John Martin,
his Heirs and Alligates for ever,

IN WITNESS WHEREOF, We, the Commissioners of the Board of Treasury,

have, in conformity to an Act of Congress of the said United States, of the

Twenty-first day of April, in the Year of our Lord, one Thousand Seven

Hundred and Eighty-seven, hereunto set our Hands and affixed the Seal of

the Treasury, this 24th March day of March

in the Year of our Lord, One Thousand Seven Hundred and Eighty
1881

Eight and of the Independence of the United States of America *the*

Wenzelius

OLDEST KNOWN LAND PATENT

OLDEST KNOWN LAND PATENT